

(b) receiving an upper limit bid for the product from the buyer, the seller being unaware of the buyer's upper limit bid;

(c) comparing the seller lower limit price and the buyer upper limit bid; and

(d) if an overlap region exists between the seller lower limit price and the buyer upper limit bid, setting a price point for the product within the overlap region that is based on the lower limit price and the upper limit bid and completing the transaction.

REMARKS

Claims 1-23 and 25 are present in this application. By this Amendment, claims 1, 17, 19, 20 and 25 have been amended. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

At the outset, Applicant extends his appreciation to Examiner Felten for his courtesy in conducting the personal interview with the Applicant and Applicant's representative on April 22, 2003. The contents of the interview are summarized in the following remarks.

During the interview, Applicant first traversed the finality of the January 30, 2003 Office Action. In the previous Office Action dated August 13, 2002, claim 11 was indicated as containing allowable subject matter. In the January 30, 2003 "final" Office Action, although the claims were rejected on new grounds, the Office Action contends that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action," and the January 30, 2003 Office Action was made final. Claim 11, however, was rejected for the first time in the January 30, 2003 Office Action. As a consequence, by making this Action final, the Applicant has not had fair opportunity to

address at least this first rejected claim. For at least this reason, Applicant submits that the finality of the Office Action should be withdrawn.

In addition, claim 2 of the present invention further defines step (d) from claim 1, reciting that step (d) is practiced by setting the price point for the product at a midpoint of the overlap region. The Office Action recognizes on page 5 that the cited Rackson patent fails to disclose the subject matter of step (d). Notwithstanding, on page 3 of the Office Action, claim 2 is indicated as being rejected in view of the Rackson patent. These rejections are clearly inconsistent and cannot logically co-exist. In order for the Applicant to fairly respond to the Office Action in this context, the grounds for rejection should be clarified. For this reason also, Applicant submits that the finality of the Office Action should be withdrawn.

Claims 1-23 and 25 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,415,270 to Rackson et al. in view of U.S. Patent No. 5,689,652 to Lupien et al. This rejection is respectfully traversed.

Rackson defines a multiple auction coordination method and system. As discussed during the interview, the Rackson system utilizes multiple auction venues in order to provide better exposure to buyers and sellers. In one embodiment, Rackson discloses an example wherein a seller desires to sell multiple items. Rackson contemplates a scenario where the seller submits a composite reserve price such that bids on a per item basis may vary (i.e., above or below the seller's asking price) so long as the composite reserve is met in combination. See, for example, column 11, lines 16-24. As recognized in the Office Action, however, nowhere does Rackson establish or set a price

point for any product when an overlap region exists between a seller lower limit price and a buyer upper limit bid, which price point is based on the lower limit price and the upper limit bid.

To correct this deficiency in Rackson, the Office Action relies on the Lupien patent, referring to a satisfaction density profile and maximum size limit "which characterizes the trader's degree of satisfaction to trade at any and all prices and sizes up to the aggregate limit," referring to column 3, lines 44-67 and column 6, lines 62 *et seq.* As discussed during the interview, these sections in Lupien, however, do not correct the deficiencies of the Rackson system. Lupien rather defines a satisfaction density profile that merely represents a degree of satisfaction to trade a particular instrument at various combinations, including price and quantity. The Lupien system is particularly suited for traders and investors exchanging securities on an organized stock exchange.

As additionally discussed during the interview, in an effort to still more clearly distinguish the system of the invention from Rackson and Lupien, claim 1 has been amended to recite that the buyer is unaware of the seller's lower limit price and the seller is unaware of the buyer's upper limit bid. In this manner, the system of the invention can objectively determine a non-biased fair market price that is beneficial to both buyer and seller, particularly if an overlap region exists between the seller lower limit price and the buyer upper limit bid. Neither Rackson nor Lupien discloses or suggests even remotely similar subject matter. Rackson rather utilizes conventional auction venues where bidders openly bid on offered products. Lupien utilizes a satisfaction density profile for securities exchange that is generated based on a trader's disclosed parameters. Of note,

Rackson discloses at column 17, lines 21-26, a closing event when a bid exceeds either a published or "secret" reserve price. This secret price, however, is only one-sided and in no instance is a price point set when a bid exceeds the secret price. In this instance, rather, the auction closes at the high bid price. This scenario is strongly seller-biased since buyers can only prevail if their bid exceeds the "sudden death" price thereby encouraging buyers to bid higher.

For at least these reasons, Applicant respectfully submits that the rejection is misplaced.

Independent claims 19, 20 and 25 have been amended in a related manner, and Applicant thus submits that these claims are allowable for reasons similar to those discussed in connection with claim 1.

With respect to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim. In addition, with respect to claim 17, as discussed during the interview, the Office Action refers to Rackson at column 1, lines 64 *et seq.* Claim 17 recites that step (b) is practiced by allowing only one bid for the product from the buyer. The section in Rackson referred to in the Office Action is unrelated to this subject matter, rather merely defining the term "replicated bid." By this Amendment, claim 17 has been rewritten in independent form.

Additionally, with respect to dependent claims 8 and 9, for example, the Office Action merely refers to Rackson at column 11, lines 5-32 without any discussion. Rackson, however, lacks any teaching or suggestion of setting a theoretical price point when an overlap region does not exist between the seller lower limit price and the buyer

upper limit bid. Rather, as in a conventional scenario, Rackson would disallow a bid below the seller's reserve price unless it could somehow be combined with other bids so that the reserve price is met through a lot of goods. This methodology is unrelated to setting a theoretical price point as claimed.

Reconsideration and withdrawal of the rejection are thus respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached pages are captioned "**Version With Markings To Show Changes Made.**"

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Alan M. Kagen
Reg. No. 36,178

AMK:jls
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

**VERSION WITH MARKINGS TO SHOW CHANGES MADE
IN THE CLAIMS**

1. (Twice Amended) A method of conducting a transaction between a buyer and a seller over a global network, the method comprising:

- (a) receiving a lower limit price for a product from the seller, the buyer being unaware of the seller's lower limit price;
- (b) receiving an upper limit bid for the product from the buyer, the seller being unaware of the buyer's upper limit bid;
- (c) comparing the seller lower limit price and the buyer upper limit bid; and
- (d) if an overlap region exists between the seller lower limit price and the buyer upper limit bid, setting a price point for the product within the overlap region that is based on the lower limit price and the upper limit bid.

17. (Amended) A method [according to claim 1] of conducting a transaction between a buyer and a seller over a global network, the method comprising:

- (a) receiving a lower limit price for a product from the seller;
- (b) receiving an upper limit bid for the product from the buyer, wherein step (b) is practiced by allowing only one bid for the product from the buyer;
- (c) comparing the seller lower limit price and the buyer upper limit bid; and
- (d) if an overlap region exists between the seller lower limit price and the buyer upper limit bid, setting a price point for the product within the overlap region that is based on the lower limit price and the upper limit bid.

19. (Twice Amended) A computer system for conducting a transaction between a buyer and a seller, the computer system comprising:

at least one user computer running a computer program that effects input information relating to one of a lower limit price for a product from the seller or an upper limit bid for the product from the buyer, wherein the buyer is unaware of the seller's lower limit price and the seller is unaware of the buyer's upper limit bid; and

a system server running a server program, the at least one user computer and the system server being interconnected by a computer network, the system server receiving the input information and processing the input information with information from other user computers by comparing the seller lower limit price and the buyer upper limit bid, wherein if an overlap region exists between the seller lower limit price and the buyer upper limit bid, the server setting a price point for the product within the overlap region that is based on the lower limit price and the upper limit bid.

20. (Twice Amended) A computer program embodied on a computer-readable medium for conducting a transaction between a buyer and a seller, the computer program comprising:

means for receiving a lower limit price for a product from the seller, the buyer being unaware of the seller's lower limit price;

means for receiving an upper limit bid for the product from the buyer, the seller being unaware of the buyer's upper limit bid; and

means for comparing the seller lower limit price and the buyer upper limit bid, wherein if an overlap region exists between the seller lower limit price and the buyer

upper limit bid, the comparing means comprises means for setting a price point for the product within the overlap region that is based on the lower limit price and the upper limit bid.

25. (Amended) A method of conducting a transaction between a buyer and a seller over a global network for exchange of a product of decaying value, the method comprising:

- (a) receiving a lower limit price for the product from the seller, the buyer being unaware of the seller's lower limit price;
- (b) receiving an upper limit bid for the product from the buyer, the seller being unaware of the buyer's upper limit bid;
- (c) comparing the seller lower limit price and the buyer upper limit bid; and
- (d) if an overlap region exists between the seller lower limit price and the buyer upper limit bid, setting a price point for the product within the overlap region that is based on the lower limit price and the upper limit bid and completing the transaction.